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DEPARTMENT OF TRANSPORTATION  
Federal Railroad Administration  
49 CFR Part 219

[Docket No. 2001-11213, Notice No. 2]  
RIN 2130-AA81

Alcohol and Drug Testing: Determination of Minimum Random Testing  
Rates for 2003

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of determination.  
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SUMMARY: Using data from Management Information System annual reports, FRA has determined that the 2001 rail industry random testing positive rate was 0.77 percent for drugs and 0.21 percent for alcohol. Since the industry-wide random drug testing positive rate continues to be below 1.0 percent, the Federal Railroad Administrator (Administrator) has determined that the minimum annual random drug testing rate for the period January 1, 2003 through December 31, 2003 will remain at 25 percent of covered railroad employees. Since the random alcohol testing violation rate has remained below 0.5 percent for the last two years, the Administrator has determined that the minimum random alcohol testing rate will remain at 10 percent of covered railroad employees for the period January 1, 2003 through December 31, 2003.

DATES: This notice of determination is effective upon publication.

FOR FURTHER INFORMATION CONTACT: Lamar Allen, Alcohol and Drug Program Manager, Office of Safety Enforcement, Mail Stop 25, Federal Railroad Administration, 1120 Vermont Avenue, NW., Washington, DC 20005, (Telephone: (202) 493-6313).

SUPPLEMENTARY INFORMATION:

Administrator's Determination of 2003 Random Drug and Alcohol Testing Rates

In a final rule published on December 2, 1994 (59 FR 62218), FRA announced that it will set future minimum random drug and alcohol testing rates according to the rail industry's overall positive rate, which is determined using annual railroad drug and alcohol program data taken from FRA's Management Information System. Based on this data, the Administrator publishes a Federal Register notice each year, announcing

the minimum random drug and alcohol testing rates for the following year (see 49 CFR 219.602, 608).

Under this performance-based system, FRA may lower the minimum random drug testing rate to 25 percent whenever the industry-wide random drug positive rate is less than 1.0 percent for two calendar years while testing at 50 percent. (For both drugs and alcohol, FRA reserves the right to consider other factors, such as the number of positives in its post-accident testing program, before deciding whether to lower annual minimum random testing rates). FRA will return the rate to 50 percent if the industry-wide random drug positive rate is 1.0 percent or higher in any subsequent calendar year.

In 1994, FRA set the 1995 minimum random drug testing rate at 25 percent because 1992 and 1993 industry drug testing data indicated a random drug testing positive rate below 1.0 percent; since then FRA has continued to set the minimum random drug testing rate at 25 percent as the industry positive rate has consistently remained below 1.0 percent. In this notice, FRA announces that the minimum random drug testing rate will remain at 25 percent of covered railroad employees for the period January 1, 2003 through December 31, 2003, since the industry random drug testing positive rate for 2001 was 0.77 percent.

FRA implemented a parallel performance-based system for random alcohol testing. Under this system, if the industry-wide violation rate is less than 1.0 percent but greater than 0.5 percent, the rate will be 25 percent. FRA will raise the rate to 50 percent if the industry-wide violation rate is 1.0 percent or higher in any subsequent calendar year. FRA may lower the minimum random alcohol testing rate to 10 percent whenever the industry-wide violation rate is less than 0.5 percent for two calendar years while testing at a higher rate. Since the industry-wide violation rate for alcohol has remained below 0.5 percent for the last two years, FRA is maintaining the minimum random alcohol testing rate at 10 percent of covered railroad employees for the period January 1, 2003 through December 31, 2003.

This notice sets the minimum random testing rates required next year. Railroads remain free, as always, to conduct random testing at higher rates.

Issued in Washington, DC, on December 20, 2002.  
Alan Rutter,  
Administrator.  
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